

Caroline Lobdell, Ore. Bar #021236
Scott W. Horngren, Ore. Bar #880604
Shay S. Scott, Ore. Bar #934214
Western Resources Legal Center
9220 SW Barbur Blvd., Suite 327
Portland, OR 97219
Telephone: (503) 768-8500
Fax: (503) 222-3255
Email: clobdell@wrlegal.org
Email: shorngren@wrlegal.org
Email: sscott@wrlegal.org

Attorneys for Defendant-Intervenor

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PENDLETON DIVISION

HELLS CANYON PRESERVATION COUNCIL,
an Oregon non-profit corporation, and **OREGON**
WILD, an Oregon non-profit corporation,

Plaintiffs,

vs.

KRIS STEIN, in her official capacity as District
Ranger of the Eagle Cap Ranger District, Wallowa-
Whitman National Forest, and **UNITED STATES**
FOREST SERVICE, and agency of the United
States Department of the Agriculture,

Defendants,

and

WALLOWA COUNTY,

Defendant-Intervenor.

Case No. 2:17-cv-00843-SU

**SECOND DECLARATION OF TODD
NASH IN OPPOSITION TO
PLAINTIFF'S MOTION FOR
INJUNCTION PENDING APPEAL**

I, Todd Nash, declare and state as follows:

1. I am a Wallowa County Commissioner. I am over eighteen years of age and make this declaration based on personal knowledge. I own and raise cattle on private property in Wallowa County near Enterprise, Oregon, and graze livestock on National Forest System lands in the Wallowa Whitman National Forest. I have served on the County Commission since January 2017. I grew up and have resided in Wallowa County for over 50 years. I have hiked and recreated throughout the county, including many of the specific areas at issue in this litigation.

2. As my prior declaration states, the Lostine Public Safety Project was an outgrowth of the Wallowa County Community Wildfire Protection Plan ("CWPP") and Section 602 of the Healthy Forests Restoration Act, which directed the governors of each state to nominate particularly high priority areas in need of fuels reduction. 16 U.S.C. § 6591a(b). After Governor John Kitzhaber identified the Wallowa-Whitman National Forest as a high priority area in 2014, the Forest Service and other agencies identified the Lostine River Corridor as a top project given the area's current condition and the County's inclusion in its CWPP.

3. Wallowa County is depending on the Lostine Corridor Public Safety Project as a matter of public safety, to provide economic benefits to the local economy, and to conserve the natural resources of the Lostine Corridor for the use and enjoyment of residents and tourists alike.

4. Due to the condition of the forest and the layout of the Lostine Corridor, prevention of catastrophic wildfire is paramount to avoiding loss of life, vast private property damage to homes and private resources, losses in tourism, and the destruction of natural habitat for wildlife and fisheries. Wallowa County residents use the road along the corridor, called

Upper Lostine River Road, to access private and public lands within the Wallowa-Whitman National Forest. The Lostine Corridor provides access to private homes, as well to recreational uses shared with the public such as hunting, fishing, and hiking.

5. In its current state, the Lostine River corridor would be extremely dangerous in the event of a fire. It is a long narrow canyon that flows predominantly from south to north, with the river running on the west side of the road. A large portion of the road is wide enough for only one vehicle to travel on and with only intermittent pull outs for oncoming traffic to pass. Tall mature trees are present on both sides of the road, with dense understory in most of these areas. At the peak of tourist season, this remote and primitive road is bustling with travelers and many residents and tourists camp alongside the river in the developed campgrounds, with camp trailers and tents. Many tourists on family vacation choose these areas to bring their children to because these areas include developed campgrounds.

6. Based on my personal observation as a long-standing citizen of Wallowa County and former private forest contractor, I noticed the overall forest health in this area declining. Many areas were severely overstocked with bug susceptible evergreen species. Poor forest health as a result of limited management has contributed to high rates of insect infestation and disease. These conditions make the likelihood of wildfire in the corridor increasingly likely.

7. Additionally, the danger is compounded because there is only one way in and out of the corridor, along the narrow gravel Upper Lostine Road, and in many places only room for one vehicle. As a result, emergency trucks coming in could not pass cars fleeing the fire. In fact, I am aware of only one location where a helicopter could land in the event of an emergency. Plans for effective evacuation in the event of a fire are bleak. Emergency responders would likely not be able to physically enter the corridor without tremendous risk to their lives.

8. If a fire were to occur under current conditions, the heat would be so great as to denude the vegetation from the canyon walls, thus making the project area much more vulnerable to rock and mud slides. Such rock and mud slides impose more risk to the safety of residents and local tourists and would potentially force the road to close for a season, or even years.

9. Wallowa County businesses would also suffer directly and indirectly if the Lostine Safety Project is not completed. Over 58% of Wallowa County lands are under federal management, so local contractors depend heavily on the continued availability of federal timber. The economic impacts to Wallowa County are not as plaintiffs mischaracterize in their request for an injunction. That is to say, the economic impact is not limited to temporary delay of tax revenue.

10. This project is a stewardship contract. As such, the County does not receive direct tax revenue from the project. Any revenues benefit Wallowa County only in so far as the proceeds are returned to the Forest Service, which in turn uses the revenue to benefit forest lands within Wallowa County. These types of benefits contribute to the public safety and local tourist economy.

11. In addition to the benefits to forest lands within Wallowa County, the County's local economy benefits too. For example, there remains a single wood processing facility in Wallowa County, Integrated BioMass Resources LLC, which is a firewood processing plant that employs 24 people in Wallowa County. These types of small businesses rely on projects like the Lostine Safety Project and the contemplated hazard trees for a continued flow of timber and in order to offer decent and stable paying jobs to Wallowa County citizens. Integrated BioMass Resources has expressed to Wallowa County that it originally intended to bid for the Lostine

Public Safety Project this fall with the hopes that the project would help Integrated BioMass Resources LLC progress through the winter season. But absent another currently unknown opportunity, Integrated BioMass Resources will likely be forced to lay off some employees. It is our understanding that the Forest Service was not able to publish the sale for bid, ironically due to the fact that the Forest service was overburdened by catastrophic fires this past summer and devoted much of its resources to addressing that compelling safety issue.

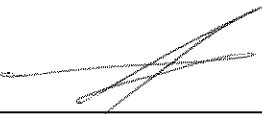
12. A significant portion of Wallowa County businesses also depend on access to natural resources more generally. Of all jobs in the county, 18% are in the agriculture, forestry, fishing, and hunting industries. U.S. Census Bureau, American Community Survey (2011-2015), tbl. "Industry by Sex and Median Earnings." The increasing risk of wildfire—with both its direct effects on the forest and fisheries resources and its potential larger effects on the community—looms large over all of those jobs. Continued access to the beauty and natural resources in the Wallowa-Whitman National Forest and the Eagle Cap Wilderness area also provides significant economic benefit to Wallowa County in terms of tourism.

13. The County works to promote these economic bases, to maintain existing businesses, and to encourage economic growth. A catastrophic fire would also devastate the small community of Lostine due to personal property loss, losses in tourism, and natural habitat for wildlife and fisheries. Every day that this project is delayed, the risk is increased.

14. The County supports the Lostine Public Safety Project because the commercial harvest is relatively minimal and is narrowly designed to create defensive areas for emergency responders, such as fire fighters. Removal of hazard trees by definition benefits the safety of our residents and tourists.

I declare, under penalty of perjury, that the foregoing is true and correct.

Dated this 19th day of October, 2018.



Todd Nash

CERTIFICATE OF SERVICE

I, Caroline Lobdell, hereby certify that I, on October 22, 2018, I caused the foregoing to be served upon counsel of record through the Court's electronic service system.

Dated this 22nd day of October, 2018.

/s/ Caroline Lobdell
Caroline Lobdell